

**IN UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

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|--------------------------------------|---|-------------------------|
| Nicole M. Frye, Administrator of the | : | TRIAL BY JURY |
| Estate of James M. Huber | : | |
| 45 Crestwood Ln. | : | CIVIL ACTION NO. 22-597 |
| North East, PA, 16428 | : | |
| | : | |
| Plaintiff. | : | |
| | : | |
| v. | : | |
| | : | |
| Anthony Nigro | : | |
| 3331 Trooper Paul Kurdys Way | : | |
| Buffalo, NY 14225 | : | |

ATTORNEY AFFIRMATION

Brian J. Zeiger, Esquire, affirms the following under the penalty of perjury:

1. I am an attorney admitted to practice before this Court and am a partner with Levin & Zeiger LLP, attorneys for the Plaintiff. I am fully familiar with the facts and circumstances surrounding this case.
2. James M. Huber was a resident of Erie county Pennsylvania. He died on August February 12, 2022 at the age of 38.
3. On May 27, 2022, Nicole M. Frye, was granted Letters of Administration with limitations by the Court of Common Pleas of Erie County Pennsylvania. To date, these letters have not been revoked and are presently in full force and effect.
4. This is a claim for civil rights violation under 42 U.S.C. 1983, Excessive Force.
5. By way of background, on February 12, 2022, Mr. Huber was pursued by New York State Troopers when Defendant Trooper Anthony Nigro used an excessive amount of force against Mr. Huber by shooting and killing him. Mr. Huber died on impact.
6. This case proceeded to mediation with Amanda Williams, Esquire, where a settlement of One Million Six Hundred and Seventy Five Dollars (\$1,675,000.00) was reached

The proposed settlement provides payment by and on behalf of Defendant, Anthony Nigro to Mr. Huber's estate.

7. Disbursements due and owing to our firm include

a. Costs

| | | |
|---------|------------------------------|--------------------|
| 8/31/22 | Filing Fees | \$ 402.00 |
| 8/31/22 | Service | 195.00 |
| 4/18/22 | Estate set up fees and costs | <u>4,418.66</u> |
| | Total Costs | <u>\$ 5,015.66</u> |

- b. Attorney's fees in this case amount to \$586,250.00, which is a blended rate of 40% to adult beneficiaries of the estate and 25% to the minor beneficiaries of the estate of the amount recovered after reimbursement of disbursements to Levin & Zeiger, LLP.
- c. After attorney's fees and payment of disbursements, the estate would net \$1,083,734.34.

8. It is believed the proposed settlement would be in the best interest of the estate and distributees, because in addition to the uncertainties surrounding contested litigation, it is believed to be unlikely that the amount of damages likely to be recoverable in excess of the amount offered in settlement would justify additional time and expense associated with obtaining a legally enforceable judgment.

9. I am unaware of any liens applicable to my client's settlement proceeds or of any other claims or settlement arising out of this action.

WHEREFORE, it is respectfully requested that this Court grant an Order approving the proposed settlement in all respects, and providing for payment from the settlement proceeds of the expenses incurred by Levin & Zeiger LLP, in connection with the prosecution of this action in the amount of \$1,675,000; providing for attorney's fees to Levin & Zeiger LLP in the amount of \$586,250.00; case costs of \$5,015.66, and directing the Estate Administrator to apply to the Erie

County Court of Common Pleas, Commonwealth of Pennsylvania, for an Order of Distribution of the net proceeds of the settlement pursuant to Title 20 of Pennsylvania's Decedents, Estates and Fiduciaries Law, together with such other and further relief this Court deems just and proper.

Respectfully,

Date: May 8, 2024

/s/ Brian J. Zeiger

By: BRIAN J. ZEIGER, ESQUIRE

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